

Atty. Dkt. No. 03CR418/KE (047141-0350)

REMARKS

Applicants thank the Examiner for the detailed Office Action dated May 31, 2007. Applicants respectfully request reconsideration of the present Application in view of the foregoing amendments and in view of the reasons that follow.

The amendment adds, changes and/or deletes claims in this Application. A detailed listing of all claims that are, or were, in this Application, irrespective of whether the claim(s) remain under examination in the Application, is presented, with an appropriate defined status identifier.

Claims 1-21 were pending in the Application. Claims 1, 9, and 17 have been amended. No new matter has been added. Accordingly, Claims 1-21 will be pending in this present Application upon entry of this Reply and Amendment.

For simplicity and clarity purposes in responding to the Office Action, Applicants' remarks are primarily focused on the rejections of the independent claims (i.e., claims 1, 9 and 17) outlined in the Office Action, with the understanding that the dependent claims that depend from the independent claims are patentable for at least the same reasons (and in most cases other reasons) that the independent claims are patentable. Applicants expressly reserve the right to argue the patentability of the dependent claims separately in any future proceedings.

Claim Rejections – 35 U.S.C. § 103

In Sections 2-5 of the Office Action, the Examiner rejected various claims under 35 U.S.C. §103(a) as being unpatentable over U.S. Pub. No. 2004/0082311 to Shiu et al. ("Shiu") in view of various other references. Claims 1-4, 8-12, 16-19, and 21 were rejected over the combination of Shiu and U.S. Patent No. 6,684,247 to Santos et al. ("Santos"). Claims 5-6 and 13-14 were rejected over the combination of Shiu in view of Santos further in view of U.S. Pub. No. 2005/0032514 to Sadri et al. ("Sadri"). Claims 7 and 15 were rejected over the combination

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of Shiu in view of Santos in further view of U.S. Pub. No. 2004/0005905 to Petrus et al. ("Petrus").

Each of the rejected dependent Claims 2-8, 10-16, and 18-21 depend variously from independent Claims 1, 9, or 17. The rejections of these claims should be withdrawn because the cited references fail to disclose, teach, or suggest the subject matter recited in Claims 1-21.

Independent Claims 1, 9, and 17, as amended, recite a "monitoring node ... wherein the monitoring node is a last open loop output peer node."

None of the cited references, whether taken alone or in proper combination, disclose, teach, or suggest a system with a "monitoring node ... wherein the monitoring node is a last open loop output peer node."

For example, Shiu shows "a method and apparatus for determining an operational mode for use in a wireless communication system based on a location, a velocity, or both, of a wireless communication device (WCD) in relation to a wireless network infrastructure" (Shiu Abstract). However, there is no disclosure, teaching, or suggestion in Shiu (either taken alone or in combination with the other cited references) of a system with a "monitoring node ... wherein the monitoring node is a last open loop output peer node."

Santos shows "a network 100 and a monitoring station 110, in accordance with methods and systems consistent with the invention. As shown, network includes nodes 101 through 106, which are interconnected via links." (Santos, Col. 4, lines 13-17). Santos does not disclose, teach, or suggest utilizing the last open loop output peer node as a monitoring node. Therefore, there is no disclosure, teaching, or suggestion in Santos (either taken alone or in combination with the other cited references) of a system with a "monitoring node ... wherein the monitoring node is a last open loop output peer node."

Sadri shows an "apparatus and associated methods to perform intelligent transmit power control with subcarrier puncturing in a multicarrier wireless communication channel." (Sadri,

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Abstract). However, there is no disclosure, teaching, or suggestion in Sadri (either taken alone of in combination with the other cited references) of a system with a “monitoring node ... wherein **the monitoring node is a last open loop output peer node.**”

Petrus shows an apparatus which “receive a signal, determine a quality of the received signal, and transmit a power control message, with a selected size, to request a modification in transmission power....” (Petrus, Abstract). However, there is no disclosure, teaching, or suggestion in Petrus (either taken alone of in combination with the other cited references) of a system with a “monitoring node ... wherein **the monitoring node is a last open loop output peer node.**”

Kwak shows an “apparatus and method for providing service based multiple data rates in mobile communication system.” (Kwak, Title). However, there is no disclosure, teaching, or suggestion in Petrus (either taken alone of in combination with the other cited references) of a system with a “monitoring node ... wherein **the monitoring node is a last open loop output peer node.**”

None of the cited references disclose, teach, or suggest a system with a “monitoring node ... wherein the monitoring node is a last open loop output peer node.” The only evidence in the record of a teaching of such a feature is contained in the present Application. Of course, any reliance on the present Application would constitute impermissible hindsight reasoning.

Claims 2-8, 10-16, and 18-21 depend variously from independent Claims 1, 9, or 17, are allowable therewith, for at least the reasons set forth above, without regard to the further patentable limitations set forth in such claims. Reconsideration and withdrawal of the rejection of Claims 1-21 is respectfully requested.

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It is submitted that each outstanding objection and rejection to the Application has been overcome, and that the Application is in a condition for allowance. The Applicants request consideration and allowance of all pending claims.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present Application.

Further, Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present Application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent Application and/or any patents or patent applications to which priority is claimed by this patent Application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 18-1722. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 18-1722.

Respectfully submitted,

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